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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

YAN DONG, SARA HADI and JUN
IMAZUMI, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR SALES, U.S.A.,
INC., a California corporation;
TOYOTA MOTOR NORTH AMERICA,
INC., a California corporation;

Defendants.

Case No.: 2:23-CV-09613-JLS-SSC

**SECOND AMENDED CLASS
ACTION COMPLAINT FOR:**

- 1. Breach of Implied Warranty;**
- 2. Violations of CLRA;**
- 3. Violations of NJCFA; and**
- 4. Fraud by Omission**

JURY TRIAL DEMANDED

Plaintiffs individually for themselves and on behalf of all persons who
purchased or leased certain vehicles described *infra* and allege:

1. This Court has jurisdiction over the subject matter of this action
pursuant to the class Action Fairness Act, 28 U.S.C. § 1332(d), because Plaintiffs and
class members are citizens of a state different than Defendants' home states, and the
aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.
Subject matter jurisdiction is also proper in this Court pursuant to 28 U.S.C. § 1331.
This Court has supplemental subject matter jurisdiction over Plaintiffs' state law
claims pursuant to 28 U.S.C. § 1367.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because
certain Defendants are incorporated in this district and state and are "at home" in this

1 district, Defendants are residents of this district pursuant to 28 U.S.C. § 1391(c)(2)
2 because they are subject to personal jurisdiction in this district. Also, venue is proper
3 in this district pursuant to 18 U.S.C. § 1965.

4 3. Plaintiffs and the class owned vehicles equipped with a uniformly
5 defective heating ventilation air condition drain (“HVAC evaporator drain”). The
6 HVAC evaporator drain hose is defectively designed and constructed with improper
7 materials for various vehicles designed, manufactured, distributed, warranted,
8 marketed, sold, and leased by Defendants under the brand name Lexus, including but
9 not limited to the 2015-2022 Lexus CT 200h, Lexus Es 350, Lexus Es 300h, Lexus
10 GX 460, Lexus HS 250h, Lexus LFA, Lexus LS 460, Lexus LS 600hL, Lexus RX
11 350/450h, Lexus RX 350 (NAP) (collectively, the “class vehicles”).

12 4. This action is brought to remedy violations of law in connection with
13 Defendants’ design, manufacture, marketing, selling, warranting, and servicing of
14 class vehicles. The class vehicles’ HVAC Defect makes the HVAC Evaporator drain
15 susceptible to blockages caused by insects. Both the design (including the absence of
16 a duckbill drain or similar existing anti-insect designs utilized in comparable vehicles)
17 and materials’ deficiencies (including the absence of an insecticide impregnated drain
18 hose or insecticide hose tip) (“HVAC Defect”) of the HVAC Evaporator drain make it
19 highly susceptible to damaging blockages caused by spider webs and other insect
20 structures. The blockages prevent the water associated with a class vehicle’s HVAC
21 system from draining outside the class vehicle, thus causing the water to drain inside
22 the passenger compartment. This passenger compartment leakage causes further
23 complications including: (a) an accumulation of mold and mildew residue within the
24 passenger compartment including on seats and in carpeting; (b) an odor within the
25 passenger compartment that impedes on the comfort and enjoyment of the class
26 vehicle; (c) making the class vehicle’s passenger compartment unusable for its
27 intended purpose; and, (d) creates safety issues caused by water shorting out the
28 vehicle’s electrical system.

1 5. Plaintiffs are informed and believe that the HVAC systems and the
2 evaporator drain component are substantially the same from a mechanical engineering
3 standpoint in all class vehicles. All class vehicles use the identical HVAC Water
4 Drain Hose ARINIX® Tip insect repellent tip as discussed in Lexus Technical
5 Service Information Bulletins (“TSIBs”) and Toyota Technical Service Bulletins
6 (“TSB”) referenced in this complaint.

7 6. The HVAC Defect is the result of faulty design, improper materials and
8 defective manufacturing. The existence of spiders and other nesting insects in all 50
9 states is a fact well-known to Defendants and has been well-known to Defendants
10 long before the production of the class vehicles at issue herein. The solution, which is
11 exceedingly less expensive than the costly repairs, is also well-known to Defendants
12 and has been known long before the production of the class vehicles at issue here
13 commenced. Unfortunately for Plaintiffs and the class members, Defendants
14 concealed the insect intrusion issue, have not performed the necessary corrections in
15 design or materials and have simply denied responsibility when the inevitable drain
16 blockage causes extensive water damage to the class vehicle’s interior. As a result of
17 Defendants’ material omissions, Plaintiffs and the class have been injured,

18 7. Because of the HVAC Defect, the HVAC evaporator drain is very
19 susceptible to blockages from spider webs, other insect structures and similar
20 foreseeable blocking issues that regularly occur. These blockages cause the HVAC
21 evaporator drain to fail to properly drain water in relation to class vehicle’s HVAC
22 system. This failure causes the HVAC water to drain inside of the passenger
23 compartment of class vehicles. The leaking water creates damage and a moist,
24 hospitable environment for the growth of bacteria, fungus, mold, and spores, which
25 then are blown throughout the passenger compartment. This causes the air to have a
26 foul, mildewy smell that is highly unpleasant and can cause respiratory problems and
27 aggravate allergies.

28 8. The HVAC Defect is the result of improper and defective design and

1 materials. For example, after Plaintiffs and class members complained to Defendants
2 about the HVAC Defect, Defendants only then disclosed a materials-based solution—
3 an evaporator drain hose with an insecticide tip—that could have easily been installed
4 during manufacture and prevented interior damage caused by the HVAC Defect.
5 Worse yet, Defendants make class members pay out-of-pocket for the ARINIX® hose
6 tip for the HVAC evaporator drain and the damage caused by the HVAC Defect even
7 if class members’ vehicles were under warranty at the time of the leak.

8 9. The HVAC Defect inhibits class members’ proper and comfortable use
9 of their class vehicles and requires class members to pay for repeated temporary repair
10 services for the HVAC evaporator drain due to the ongoing issues it has caused.

11 10. Prior to the manufacture and sale of the class vehicles, Defendants knew
12 of the HVAC Defect through sources available to Defendants, as demonstrated by the
13 multiple TSIBs and TSBs prepared by Defendants and issued to their authorized
14 dealers (who are authorized agents of Defendants by virtue of their relationship for
15 purposes of sales publications, warranty administration and warranty repairs, warranty
16 breach notice, class vehicle defect disclosures, service actions, recall repairs, *inter*
17 *alia*); field inspections conducted by Defendants; warranty requests made by class vehicle
18 purchasers and lessees; consumer complaints posted on public online vehicle owner
19 forums and social media; previous recalls; and other internal sources unavailable to
20 Plaintiffs without discovery. Yet despite their knowledge, Defendants failed to
21 disclose and actively concealed the HVAC Defect from class members and failed to
22 provide the protective drain hose tip which was available to prevent insect nesting.
23 Defendants conduct is akin to failing to install a full and leak-proof roof on a vehicle
24 despite the knowledge of the inevitability of rain or other inclement weather which
25 would intrude into the vehicle’s interior.

26 11. Defendants knew or should have known that the “solutions” they
27 charged class members for were simple fixes that should have been performed by
28 Defendants pre-purchase or at the very least, Defendants should have revealed the

1 HVAC Defect to class members, who then could have paid for the fixes and prevented
2 the more extensive damage the HVAC Defect causes within the passenger
3 compartments of class vehicles, for which Defendants force class members to pay.

4 12. Defendants failed to fix the HVAC Defect either preemptively by a
5 materials fix or by providing a repair and fix under warranty for the HVAC Defect
6 and have failed to reimburse class members for the costs associated with the HVAC
7 Defect.

8 13. Further, Defendants failed to inform Plaintiffs and class members of the
9 HVAC Defect and thus preventing Plaintiffs and class members from being able to
10 rectify the HVAC Defect before it caused damage to class vehicles.

11 14. As a result of Defendants' misconduct, Plaintiffs and class members
12 were harmed and suffered actual damages, in that the class vehicles have manifested,
13 and continue to manifest, the HVAC Defect, and Defendants have not provided a
14 permanent remedy for their HVAC Defect. Furthermore, Plaintiffs and class members
15 incurred, and will continue to incur, out-of-pocket unreimbursed costs and expenses
16 relating to the HVAC Defect.

17 **PARTIES**

18 **Plaintiff Yan Dong**

19 15. Plaintiff Yan Dong ("Dong"), at all relevant times, is and has been a
20 resident and citizen of Santa Clara County, State of California.

21 16. Dong owns a 2021 Lexus RX 450h, which was purchased in August of
22 2023, from an authorized Lexus dealership in Colma, California.

23 17. Dong's class vehicle was manufactured, sold, distributed, marketed, and
24 warranted by Defendants.

25 18. Dong purchased the class vehicle for her personal, family, and household
26 use.

27 19. Dong expected her class vehicle to be of good and merchantable quality
28 and not defective. She had no reason to know, or expect, that her vehicle's HVAC

1 evaporator drain was susceptible to blockages described in this complaint, nor was she
2 aware from any source prior to purchase of the unexpected, extraordinary, and costly
3 maintenance steps Defendants suggest are necessary to prevent the development of
4 mold. Had Dong known these facts, she would not have bought her class vehicle or
5 would have paid substantially less for it.

6 20. Dong first experienced water in her class vehicle's passenger
7 compartment in December of 2023.

8 21. As a result of this condition, Dong brought her class vehicle to the local
9 authorized Lexus dealer at which time the local authorized Lexus dealer's service
10 representative admitted to Plaintiff that the blockage was the result of the improper
11 design and materials used and that, had proper materials such as a HVAC evaporator
12 hose with a protective insecticide tip, commonly known as an ARINIX® Tip, been
13 used, the issue would not have occurred. Dong is informed and believes that the
14 ARINIX® Tip part costs approximately \$30.

15 22. As a result of the HVAC Defect, however, Dong has suffered significant
16 ascertainable loss, as she was quoted a price of approximately \$12,000 to remedy the
17 flooded passenger compartment interior water damage caused by the HVAC Defect.
18 Although Dong's automobile insurance company covered a portion of the cost, Dong
19 was required to pay approximately \$1,000 as the deductible portion. Defendants failed
20 to disclose the HVAC Defect which would have been material to Plaintiffs and the
21 class. Had Defendants disclosed to Dong that the class vehicles had the defective
22 HVAC evaporator drain, or that she would have to pay for repairs/replacement of the
23 HVAC Defect, she would not have purchased her class vehicle, or would have paid
24 substantially less for it.

25 23. At the dealership, Dong requested that Defendants cover the cost of the
26 repair under warranty and Defendants wrongfully refused to extend or cover the
27 damage under the warranty.

28 **Plaintiff Sara Hadi**

1 24. Plaintiff Sara Hadi (“Hadi”) is a resident and citizen of Bergen County,
2 State of New Jersey.

3 25. Hadi owns a 2022 Lexus RX SUV, which was purchased new in July of
4 2022, from a local authorized Lexus dealership in New Jersey.

5 26. Hadi’s class vehicle was manufactured, sold, distributed, marketed, and
6 warranted by Defendants.

7 27. Hadi purchased the class vehicle for her personal, family, and household
8 use.

9 28. Hadi expected her class vehicle to be of good and merchantable quality
10 and not defective. She had no reason to know, or expect, that her vehicle’s HVAC
11 evaporator drain was susceptible to blockages described in this complaint, nor was she
12 aware from any source prior to purchase of the unexpected, extraordinary, and costly
13 maintenance steps Defendants suggest are necessary to prevent the development of
14 mold. Had she known these facts, she would not have bought her class vehicle or
15 would have paid substantially less for it.

16 29. Hadi first experienced water in her passenger compartment on July 16,
17 2023, just under a year from when she purchased the vehicle on July 21, 2022.

18 30. Hadi was informed at that time by the authorized Lexus dealer from
19 whom she purchased her class vehicle that the blockage was the result of the improper
20 design and materials used, and that had proper materials such as an HVAC evaporator
21 drain hose with a protective insecticide tip (commonly known as an ARINIX® Tip)
22 been used, the issue would not have occurred. Hadi is informed and believes that the
23 ARINIX® Tip part costs approximately \$30.

24 31. However, as a result of the HVAC Defect, Hadi has suffered significant
25 ascertainable loss, as she was quoted a price of approximately \$8,000 to remedy the
26 flooded passenger compartment interior water damage caused by the HVAC Defect.
27 Although Hadi’s automobile insurance company covered a portion of the cost, Hadi
28 was required to pay \$500 as the deductible portion.

1 32. Defendants failed to disclose the HVAC Defect which would have been
2 material to Plaintiffs and the class. Had Defendants disclosed to Hadi that the class
3 vehicles had a defective HVAC evaporator drain, or that she would have to pay for
4 repairs/replacement of the HVAC Defect, she would not have purchased her class
5 vehicle, or would have paid substantially less for it.

6 33. At the dealership, Hadi requested that Defendants cover the cost of the
7 repair under warranty and Defendants wrongfully refused to extend or cover the
8 damage under the warranty.

9 **Plaintiff Jun Imaizumi**

10 34. Plaintiff Jun Imaizumi (“Imaizumi”) is currently a resident and citizen of
11 Nassau County, State of New York, and formerly a resident and citizen of
12 Hillsborough County, State of Florida.

13 35. Imaizumi owns a 2020 Lexus RX SUV, which was purchased new in
14 February of 2020, from an authorized Lexus dealership in Tampa, Florida.

15 36. Imaizumi’s class vehicle was manufactured, sold, distributed, marketed,
16 and warranted by Defendants.

17 37. Imaizumi purchased the class vehicle for his personal, family, and
18 household use.

19 38. Imaizumi expected his class vehicle to be of good and merchantable
20 quality and not defective. He had no reason to know, or expect, that his vehicle’s
21 HVAC evaporator drain was susceptible to blockages described in this complaint, nor
22 was he aware from any source prior to purchase of the unexpected, extraordinary, and
23 costly maintenance steps Defendants suggest are necessary to prevent the
24 development of mold. Had Imaizumi known these facts, he would not have bought his
25 class vehicle or would have paid substantially less for it.

26 39. Imaizumi first experienced water in his class vehicle’s passenger
27 compartment in September of 2023.

28 40. Imaizumi was informed by the local authorized Lexus dealer’s service

1 representative at that time that the HVAC drain blockage was the result of the
2 improper design and materials used and that, had proper materials such as an
3 evaporator hose with an insecticide tip, commonly known as an ARINIX® Tip, been
4 used, the issue would not have occurred. Imaizumi is informed and believes that the
5 ARINIX® Tip part costs approximately \$30.

6 41. As a result of the HVAC Defect, however, Imaizumi has suffered
7 significant ascertainable loss, as he was quoted a price of approximately \$7,500 to
8 remedy the flooded passenger compartment interior water damage caused by the
9 HVAC Defect. Although Imaizumi's automobile insurance company covered a
10 portion of the cost, Imaizumi was required to pay approximately \$500 as the
11 deductible portion.

12 42. Defendants failed to disclose the HVAC Defect which would have been
13 material to Plaintiffs and the class. Had Defendants disclosed to Imaizumi that the
14 class vehicles had defective HVAC evaporator drain, or that he would have to pay for
15 repairs/replacement of the HVAC Defect, he would not have purchased his class
16 vehicle, or would have paid substantially less for it.

17 43. At the dealership, Imaizumi requested that Defendants cover the cost of
18 the repair under warranty and Defendants wrongfully refused to extend or cover the
19 damage under the warranty.

20 44. Lexus is the luxury vehicle division of Japanese automobile manufacturer
21 Toyota Motor Corporation ("TMC"), which has its principal place of business in
22 Nagoya, Japan. The Lexus brand is marketed in more than 90 countries and territories
23 worldwide and is Japan's largest-selling manufacturer of premium cars. It has ranked
24 among the 10 largest Japanese global brands in market value. TMC's Lexus division
25 is also headquartered in Nagoya, Japan and has operational centers in Brussels,
26 Belgium, and Plano, Texas.¹

27 45. TMC maintains an extensive dealer network in and throughout the United
28

¹ <https://en.wikipedia.org/wiki/Lexus>

1 States. TMC maintains an extensive dealer network in and throughout this judicial
2 district and the State of California and transports vehicles into the State of California
3 for sale and lease to consumers, such as Plaintiffs and class members.

4 **Defendant Toyota Motor North America, Inc.**

5 46. Defendant Toyota Motor North America, Inc. (“TMNA”) is a
6 corporation organized under the laws of the State of California. TMNA is a wholly
7 owned subsidiary of TMC and is responsible for the sales and marketing, field
8 inspections, and warranty responsibilities for TMC and its affiliated companies.²
9 TMNA is the holding company for the sales, manufacturing, engineering, and
10 research and development subsidiaries of TMC located in the United States. TMNA is
11 in the business of designing, engineering, testing, validating, manufacturing,
12 marketing, and selling TOYOTA and Lexus branded vehicles throughout the United
13 States, including within the State of California, in which it is incorporated. TMNA is
14 the parent company of Defendant Toyota Sales USA. While TMNA maintains its
15 primary headquarters in Plano, Texas, it maintains substantial portions of its
16 operations in California. A few examples follow:

17 **A. TMNA Research & Development, Gardena, California.** TMNA’s
18 Research & Development, Gardena, is its research & development arm for North
19 America, which is based in Gardena, California. Through TMNA R&D, Gardena,
20 TMNA is engaged in the engineering design, vehicle evaluation, powertrain
21 development & calibration, regulatory affairs, and alternative powertrain research for
22 both its TOYOTA and Lexus vehicles manufactured or sold in North America.³
23 TMNA maintains its R&D Gardena base of operations at 1630 West 186th Street,
24 Gardena, CA 90248-3807. TMNA is the corporate parent of all relevant TOYOTA
25 entities, including but not limited to Toyota Motor Manufacturing, Kentucky, Inc.;
26 Toyota Motor Manufacturing, Indiana, Inc.; Toyota Motor Manufacturing Canada
27

28 ² See <https://www.toyota.com/usa/operations/map/tcal>
³ https://www.toyota.com/usa/operations/map/ttc_gardena

1 Inc.; Toyota Motor Manufacturing Mississippi Inc.; Toyota Motor Manufacturing,
2 Texas, Inc.; Toyota Motor Manufacturing de Baja California; Toyota Financial
3 Services; Toyota Motor Sales, U.S.A., Inc.; Toyota Motor Engineering &
4 Manufacturing North America, Inc.; and Toyota Motor Credit Corporation.

5 **B. Toyota Auto Body Company, Inc., California.** Almost 50 years ago,
6 the Toyota Defendants opened their first manufacturing facility in the United States in
7 Long Beach, California, referred to as the Toyota Auto Body Company (“TABC”).
8 Ever since, TABC has been in the forefront of building the company’s reputation for
9 quality. Currently, with 300 team members, TABC is a primary supplier of parts for
10 certain Toyota vehicles and components— everything from sheet metal to steering
11 columns, from catalytic converters to sub-assemblies, and more— for use in its
12 manufacturing operations in the U.S. and for export to Japan. TABC maintains its
13 base of operations at 6375 North Paramount Boulevard, Long Beach, CA 90805.⁴

14 **C. TMNA’s Substantial Multi-Million Dollar Investment in Its**
15 **Manufacturing Facilities in California.** Earlier last year, TMNA announced it
16 would invest \$27 million on top of the \$485 million spent to date to support an
17 increase in TABC’s production capabilities. Chris Reynolds, executive vice president,
18 Corporate Resources, TMNA noted “Toyota’s roots in California run deep” and
19 “[t]his investment demonstrates our continued commitment to doing business in the
20 Golden State, investing in our operations across the United States and building where
21 we sell.”⁵

22 **Defendant Toyota Motor Sales, U.S.A., Inc.**

23 47. Defendant Toyota Motors Sales, U.S.A., Inc. (“Toyota Sales USA”) is a
24 wholly owned subsidiary of TMNA and is incorporated in in the State of California.
25 Although its primary headquarters is located in Plano, Texas, it continues to have
26

27 ⁴ <https://pressroom.toyota.com/good-as-gold-tabc-the-can-do-plant-celebrates-50-years-of-success/>

28 ⁵ <https://pressroom.toyota.com/27-million-investment-to-expand-toyotas-long-beach-manufacturing-capabilities/>

1 substantial operations in California. Upon information and belief, the sales materials
2 disseminated throughout the United States to dealerships is created and designed in
3 California. In addition, California is the state in which TOYOTA and Lexus vehicles
4 manufactured elsewhere are shipped into the United States and Toyota Sales, USA is
5 integrally involved in the sales and distribution of those imported vehicles and
6 materials from the port of entry to dealerships throughout the United States. In
7 addition, Toyota Sales, USA oversees the sales of TOYOTA and Lexus products in 49
8 states through a network of over 1,200 TOYOTA dealers (of whom more than 900
9 also previously sold SCION vehicles) and over 200 Lexus dealers. California
10 maintains the greatest number of authorized TOYOTA dealerships of any other state
11 at 172 dealerships.⁶ Toyota Sales USA is a wholly owned subsidiary of TMNA, which
12 in turn, is a wholly owned subsidiary of TMC.

13 48. Toyota Sales USA, through its Lexus division, is responsible for the
14 marketing and sales of the class vehicles, including all versions of the brochures,
15 communications with dealers about the class vehicles, and the maintenance and
16 service of the class vehicles. It is also the warrantor for portions of the limited
17 warranties offered by Defendants against defects in materials or workmanship which
18 apply to all class vehicles sold or leased by authorized Toyota dealers in the United
19 States and New Jersey and/or Florida, including Plaintiffs' class vehicles. That
20 warranty's coverage is automatically transferred at no cost to subsequent vehicle
21 owners.

22 49. Plaintiffs refer to TMNA and Toyota Sales USA jointly and severally as
23 "Defendants."

24 50. At all relevant times, TMC (itself and through its related entities) engaged
25 in the business of designing, selling, manufacturing, marketing, distributing, servicing
26 and warranting class vehicles.

27
28 ⁶https://en.wikipedia.org/wiki/Toyota_Motor_Sales,_USA#:~:text=TMS%20oversees%20the%20sales%20of,other%20state%20at%20172%20dealerships.

1 51. TMC's Lexus division claims it is "committed to creating luxury
2 automobiles which are and will be among the finest ever built anywhere in the world"
3 and that "Lexus is equally committed to setting a new standard for extraordinary
4 customer satisfaction throughout the ownership cycle."⁷

5 52. Upon information and belief, Defendants were responsible for the
6 manufacture, materials, warranty and design of the class vehicles, including the
7 defective HVAC evaporator drain.

8 53. Upon information and belief, Defendants, and at all relevant times had,
9 the contractual right to exercise, and in practice has exercised, control over the design
10 of class vehicles, the manner of class vehicles' marketing, the scope of written
11 warranties, the scope of repairs in practice to be covered under warranty, and
12 representations made and facts withheld from consumers and the public about the
13 HVAC Defect. Lexus has been directly involved in assisting, directing, and handling
14 of class Member complaints regarding the HVAC Defect.

15 **PERSONAL JURISDICTION**

16 54. This Court has personal jurisdiction over Defendants because Defendants
17 TMNA and Toyota Sales USA are incorporated in this State and are authorized to do
18 business in this judicial district and in the State of California, conduct substantial
19 business in the State of California, and some of the material conduct and omissions
20 giving rise to the complaint, took place in California. In addition, each Defendant
21 intentionally avails itself of the markets within California for the promotion, sale,
22 marketing, and distribution of its vehicles, including the class vehicles, and conducts a
23 substantial portion of its manufacturing in California and imports its vehicles
24 manufactured elsewhere into the ports of entry located in California for further sale
25 and distribution to its authorized dealership network in the United States, and
26 maintain more authorized dealers in the State of California than any other state. The
27 exercise of jurisdiction would comport with notions of fair play and substantial

28 ⁷ [Sec.gov/Archives/edgar/data/1019849/000095012402000556/k66280ex10-24.txt](https://www.sec.gov/Archives/edgar/data/1019849/000095012402000556/k66280ex10-24.txt)

1 justice.

2 55. Each of these facts independently, but also all of these facts together, are
3 sufficient to render the exercise of jurisdiction by this Court over Defendants
4 permissible under traditional notions of fair play and substantial justice.

5 **APPLICABLE CONTROLLING LAW**

6 56. Plaintiffs request damages on behalf of themselves and proposed class
7 members, pursuant to the California Consumer Legal Remedies Act, the New Jersey
8 Consumer Fraud Act, and based upon Defendants' common law breaches of warranty
9 and fraud.

10 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

11 57. Plaintiffs bring this action for themselves and on behalf of proposed class
12 members.

13 58. As a result of the HVAC Defect, the HVAC evaporator drain in each of
14 the class vehicles is susceptible to blockages from spider webs and other insect
15 activity. These blockages force condensed water created by operation of the class
16 vehicle's HVAC system to drain into the class vehicle's passenger compartment. The
17 accumulation of excessive undrained water can, and in Plaintiffs' cases have damaged
18 material components in the passenger compartment including the seat and carpeting,
19 compromising the comfort, safety and enjoyment of class vehicle occupants,
20 including class members, and requiring class members to pay substantial amounts of
21 money for repairs.

22 59. In addition, the damp conditions promote the growth of mold in the
23 passenger compartment. The repairs associated with fixing these interior components
24 far exceed the cost associated with installing the appropriate HVAC evaporator drain
25 protective tip.

26 60. Plaintiffs are informed and believe that a drain hose equipped with a
27 protective insecticide tip or other appropriate hose design would prevent the drainage
28 of accumulated evaporator water into the class vehicle's passenger compartment, thus

1 preventing the damage that the accumulation of water from the drainage causes in the
2 interior passenger compartment.

3 61. Defendants knew or should have known that the HVAC evaporator drain
4 in class vehicles was defective in materials and design, and could cause water to drain
5 into the passenger compartments of class vehicles.

6 62. The installation of an appropriate drainage hose during manufacture
7 would have saved countless class members time and money spent on repairs
8 associated with the HVAC Defect. Defendants knew of the HVAC Defect prior to sale
9 or lease of class vehicles.

10 63. Prior to the manufacture and sale of the class vehicles, Defendants knew
11 of the HVAC Defect through sources such as technical publications including but
12 limited to Technical Service Information Bulletins (“TSIBs”); field inspections by its
13 personnel; internal review committees, complaints made on public forums and social
14 media by Lexus vehicle owners; previous recalls; and other internal sources
15 unavailable to Plaintiffs without discovery.

16 64. Further, despite their knowledge Defendants failed to inform Plaintiffs and
17 class members of the HVAC Defect. Sharing this knowledge also could have saved
18 countless class members time and money spent on repairs associated with the HVAC
19 Defect.

20 **Defendants’ Technical Service Information Bulletins Demonstrate Pre-Sale**
21 **Knowledge of the HVAC Defect.**

22 65. Defendants’ knowledge of the HVAC Defect is also evident in TSIBs
23 drafted and issued by Defendants concerning the HVAC evaporator drains in
24 TOYOTA and Lexus vehicles, including class vehicles.

25 66. For example, on April 28, 2014, Defendants, through Toyota Sales, USA,
26 issued TSB T-SB-0033-14 entitled “HVAC Evaporator drain Hose Clogged Due to
27 Insect Intrusion” to alert its dealers that vehicles could “exhibit a condition where the
28 HVAC Evaporator drain Hose has become obstructed with an insect nest. An insect

1 repellent drain hose tip (ARINIX® Tip) is now available to help minimize future
2 occurrences of this environmental condition. For some models, a new drain hose is
3 required to properly fit the ARINIX® Tip.” The bulletin indicated to its dealers that
4 Toyota would not cover the installation of the ARINIX® Tip under warranty.

5 67. Then, on May 12, 2014, Defendants through Toyota Sales USA (which
6 listed the TSIB as coming from “Lexus, a division of Toyota Motor Sales, U.S.A.”)
7 issued a TSIB numbered L-SB-0018-14 for Lexus vehicles, and entitled “HVAC
8 Evaporator drain Hose Clogged Due to Insect Intrusion.” (“Lexus 2014 TSIB”).
9 Similar to the earlier TSB for TOYOTA vehicles, the Lexus 2014 TSIB
10 acknowledged that vehicles could experience the signature symptom of the “HVAC
11 Evaporator drain Hose [becoming] obstructed with an insect nest.” The Lexus 2014
12 TSIB advised dealers that “[a]n insect repellent drain hose tip (ARINIX® Tip) is now
13 available to help minimize future occurrences of this environmental condition.”
14 Again, the bulletin indicated to its dealers that Defendants would not cover the
15 installation of the ARINIX® Tip under warranty.

16 68. The TSIB further instructed service centers that “[f]or some models, a
17 new drain hose is required to properly fit the ARINIX® Tip.” The ARNIX® Tip is an
18 insect repellent drain hose tip which costs approximately \$30. Figure 1 below depicts
19 the ARINIX® Tip, which appears as a white cap, at the end of the drain hose:
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Figure 1: ARINIX® TIP

69. On July 26, 2021, Defendants through Toyota Sales issued another Technical Service Information Bulletin L-SB-0024-21 (which listed the TSIB as coming from “Lexus, a division of Toyota Motor Sales, U.S.A.”) - entitled “HVAC Evaporator drain Hose Clogged Due to Insect Intrusion” (“Lexus 2021 TSIB”) which added coverage to Lexus models from model years 2018 through 2022, including Plaintiffs’ class vehicles, and stated “Applicability has been updated to include 2018 – 2022 model year Lexus vehicles.” Similar to the prior TSIBs, the Lexus 2021 TSIB bulletin indicated to its dealers that Defendants would not cover the installation of the ARINIX® Tip under warranty.

70. Incredibly, despite stating that the prior referenced TSIBs were intended to “minimize future occurrences of this environmental condition,” Defendants neither added the ARINIX® Tip to the class vehicles at the factory, nor offered the

1 ARINIX® Tip as an option for the \$30 cost to be installed either at the factory or by
2 the dealer or informed Plaintiffs or class members in any materials that the HVAC
3 Defect existed and could be easily remedied with a \$30 materials component.

4 **Defendants' Pre-Sale Knowledge of the HVAC Defect is also Demonstrated from**
5 **a Prior Recall by Defendants.**

6 71. Defendants also knew or should have known about the HVAC Defect
7 from a 2013 recall of 870,000 vehicles with similar or identical insect blockage issues.
8 In October of 2013, Defendants announced a recall of 870,000 model years 2012 and
9 2013 Toyota Camry vehicles. The recall concerned spider webs that were creating
10 blockages in the HVAC system drainage tube causing water to drip inside the
11 passenger compartment onto an airbag control module. The water was short circuiting
12 the control module and causing unintended air bag deployment. The prior recall also
13 serves as an admission that the HVAC Defect is a safety defect and should be the
14 subject of implied or express warranty coverage.

15 72. The similar nature and large-scale recall which Defendants instituted in
16 2013 was further evidence of notice to Toyota that the class vehicles which suffered
17 from a similar condition, from the same time period, had similar issues.

18 **Defendants Knew of the HVAC Defect Based on class Member Complaints on**
19 **Public Online Forums.**

20 73. Defendants monitor online bulletin boards and chat rooms of their
21 Toyota and Lexus vehicle owners on a regular and continuous basis in connection
22 with both its social media outreach and in connection with its legal obligations under
23 the TREADS Act requiring manufacturers to monitor safety issues and inform
24 NHTSA within five (5) days of any safety issues it becomes aware of through that
25 monitoring effort.

26 74. In connection with the HVAC Defect, many class vehicle owners posted
27 complaints about the HVAC Defect on public online vehicle owner forums.

28 75. The following is a small sampling of such complaints found on online

forums including Facebook and Club Lexus⁸

- i. “My car is just 4 months old . I am getting water inside of it. The dealer on route 10 claims it is because of the sunroof drains getting clogged by the stuff from the tree. One person told me it is from spider web clogging it. The car has been with them for a week they cannot guarantee me it is not going to happen again.” User Madbuyer August 2, 2016.
- ii. “My 2017 RX has water accumulating in the passenger side foot well. I live in the northeast and am dealing with a high volume dealership. I brought the vehicle into service and they informed me that there have been multiple issues (3 in the last 5 weeks). The story I was given by my service consultant was that spiders boro [sic] into the AC drainage plug causing it to clog and backing water up into the cabin. The accumulating water causes black mold to form with explains the odd odor. Their solution is to pull out all carpeting and padding and perform mold remediation.” User jrcaputo October 13, 2017.
- iii. “I have had the same problem with my Lexus RX 2016. Bought in feb and had huge leak noticed in oct. Dealership has had my car for nearly 6 weeks - gave it back once with carpet still soaked. Says spider web clogged ac duct” User RM0104 November 18, 2016.
- iv. “I have a RX450H I recently noticed my floor mat on my [driver] and passenger side is wet. Is there anyone in this group that can shed some light why this is happening?” “Thanks everyone for your advice. The problem was the AC drain” Anil Etwaroo July 17, 2023.
- v. “Has anyone else had any issues with a 2022 RX350 with large amounts of water under the [passengers] carpet? The smell and amount of water is crazy. Dealership said it wasn’t covered under warranty and to take it and have it detailed. They noted that a spider had made a nest in some tube!!” Douglas Hare July 15, 2023.
- vi. “I have an AC drain leak in my 2020 RX 350 on the passenger side floor. Seems to be happening to a lot of people. When I took it to the dealer, they gave me standard response which is, AC drain is clogged by a spider web and not covered under warranty but your will fix it with us!” Hyman Shana September 3, 2022.

76. As early as 2016, and likely earlier, Defendants were aware of the HVAC Defect causing issues for class members and owners of their Toyota and Lexus vehicles. In addition, Defendants were aware of the HVAC Defect based on, *inter alia*, the following sources:

- A. TSIBs and TSBs serve as admissions of Defendants’ knowledge of the blockages and flooding into the cabin caused by the defective materials

⁸ <https://www.clubLexus.com/forums/rx-4th-gen-2016-2022/869775-water-inside-car-drain-clogged-merged-threads.html> last visited August 22, 2023

and design;

- B. Knowledge of Lexus had of the large recall of air conditioner condensers due to blockages caused by insects by Toyota; and,
- C. Numerous and consistent class vehicle owner complaints made on online vehicle owner forums.

77. Moreover, the large number and consistency of class Member complaints describing the HVAC Defect's propensity to cause a moldy odor to emit from the air-conditioning vents underscores the fact that class members considered the HVAC Defect to be a material issue to the reasonable consumer, particularly as it caused additional and separate physical damage to the vehicle.

78. Certain class members have raised this issue with the authorized Lexus dealer's service or general manager, who have admitted that Lexus is aware that the problem occurs frequently and that Defendants know about the problem and prefer to handle it after the fact as a non-warranty "customer pay" item, rather than incur the cost of fixing the problem preemptively.

The Applicable Warranties

79. Defendants sold class vehicles with a new vehicle "Basic Warranty" which included, among other warranties, protections to the vehicle's consumer purchaser and/or lessee against defects:

This warranty covers repairs and adjustments needed to correct defects in materials or workmanship of any part supplied by Lexus. ...The warranty is for 48 months or 50,000 miles, whichever occurs first." ...Warranty repairs will be made at no charge for parts and labor.

80. The class vehicles were also sold subject to the implied warranty of merchantability and fitness for ordinary purposes.

Defendants' Marketing of Class Vehicles and Concealment of the HVAC Defect

81. The warranty is provided directly to the consumer purchaser and/or lessee of the class vehicle as it runs with the vehicle and, alternatively, to the extent it

1 is made to the authorized Lexus dealer, it is understood and is the uniform custom and
2 practice that the consumer end purchaser and/or lessee is the intended third party
3 beneficiary of the warranty.

4 82. Defendants represented to Plaintiffs and the class that the Parts Warranty
5 “is in effect for 12 months, regardless of mileage ... [and] Any repair or replacement
6 that becomes necessary because of a defect in the service part is warrantable.”

7 83. Both Defendants’ New Vehicle Basic Warranty and Parts Warranty cover
8 the HVAC Drain Hose, which is the part alleged to be defective and causes the
9 passenger compartment flooding and water damages suffers from a materials and/or
10 design defect. Defendants’ implied warranty of merchantability and fitness also runs
11 with class vehicles.

12 84. Based on Plaintiffs’ experiences and reports from other consumers,
13 Defendants have refused to cover repairs related to the HVAC Defect under either
14 warranty, and instead requires class members pay out-of-pocket for these
15 nonpermanent “fixes” of the HVAC Defect even if class members’ vehicles were
16 covered under the relevant warranty at the time. In addition, even if the failure is
17 covered by the class Member’s automobile insurance, class members are responsible
18 for the deductible portion and must pay that out-of-pocket as well as incur the cost of
19 delay and non-use of the vehicle as well as separate and independent physical damage
20 to the vehicle.

21 85. Upon information and belief, Defendants knowingly manufactured and
22 sold the class vehicles with the HVAC Defect, while willfully concealing the true
23 inferior quality and sub-standard performance of the class vehicles’ HVAC system.

24 86. Defendants, particularly Toyota Sales USA and TMNA, directly market
25 the class vehicles to consumers via extensive nationwide, multimedia advertising
26 campaigns on television, the Internet, billboards, print publications, mailings, and
27 through other mass media.

28 87. Although Defendants knew of the HVAC evaporator drain’s inability to

1 properly drain because they failed to add the ARINIX® Tip protector knowing the HVAC
2 evaporator drain hose commonly becomes blocked without the ARINIX® Tip protector
3 added on, and Defendants knowingly concealed from Plaintiffs and class members the
4 HVAC Defect which was a material defect, prior to their respective purchases of their
5 class vehicles. This caused Plaintiffs and class members to form a reasonable belief
6 and expectation that this issue would not emanate from class vehicles' HVAC system
7 and certainly caused the reasonable consumer not to expect that the vehicle itself
8 would become flooded and physically damaged, resulting in the growth of organic
9 materials regularly giving rise to foul odors, making the use of class vehicles anything
10 but marketable.

11 88. Plaintiffs and class members were exposed to the long-term, national,
12 multimedia marketing campaign of Defendants, particularly TMNA and Toyota Sales
13 USA, touting the supposed high quality and marketability of the class vehicles, and
14 class members justifiably made their decisions to purchase and/or lease their class
15 vehicles based on said Defendants' misleading marketing that concealed the true
16 defective nature of the class vehicles' HVAC Defect.

17 89. Further, Defendants knowingly misled class members (who were
18 reasonable consumers) about the true defective nature of the class vehicles. As
19 detailed above, Defendants have been aware of the HVAC Defect since at least 2014,
20 and likely earlier, through TSIBs, TSBs, the high number of HVAC evaporator drain
21 servicing and replacement component part sales, and the numerous and consistent
22 complaints about the HVAC Defect made and posted in public online forums.

23 90. Defendants have actively concealed the existence and nature of the
24 HVAC Defect from class members since at least 2014 despite their knowledge of the
25 existence and pervasiveness of the HVAC Defect, and certainly well before Plaintiffs
26 and class members purchased or leased their respective class vehicles. Specifically,
27 Defendants have:

28 A. Knowingly concealed from class members, prior to, at and after the time

1 of purchase, lease, and/or service, of the class vehicles, the presence and
2 existence of the HVAC Defect;

3 B. Knowingly concealed from class members prior to, at and after the time
4 of purchase, lease, and/or service, that the class vehicles' HVAC
5 evaporator drain was defective and was not fit for its intended purposes;

6 C. Knowingly concealed the fact that the class vehicles' HVAC evaporator
7 drain was defective, despite the fact that Defendants learned of the
8 HVAC Defect as early as 2014, based on the multiple TSIBs and TSBs to
9 authorized dealerships issued by Defendants TMNA and Toyota Sales
10 USA and likely even earlier;

11 D. Knowingly concealed the existence and pervasiveness of the HVAC
12 Defect even when directly asked about it by class members during
13 communications with Lexus Customer Assistance, Lexus dealerships,
14 and Lexus service centers;

15 E. Actively concealed the HVAC Defect by forcing class members to bear
16 the cost of repairs;

17 F. Actively concealed the material HVAC Defect by knowingly omitting to
18 reveal that a preventative material replacement, e.g., the ARNIX® Tip
19 protector for the HVAC evaporator drain existed and could have been
20 installed to thereby prevent the blockages from occurring and reoccurring
21 because the HVAC evaporator drain hose otherwise remained defectively
22 designed and lacking in the proper and necessary material installation.

23 91. By engaging in the conduct described above, Defendants concealed, and
24 continue to conceal, the material HVAC Defect from class members. Plaintiffs and all
25 class members have been injured because, if Plaintiffs and the class members had
26 knowledge of the information, they would not have bought or leased the class
27 vehicles or would have paid less for them.

28 **Fraudulent Concealment and Material Omission Allegations**

1 92. Absent discovery, Plaintiffs are unaware of, and unable through
2 reasonable investigation to obtain, the true names and identities of those individuals
3 related to Defendants responsible for disseminating false and misleading marketing
4 materials and information regarding the class vehicles. Defendants are necessarily in
5 possession of or have access to all of this information. Plaintiffs' claims arise out of
6 Defendants' knowing material omission and/or concealment of the HVAC Defect.
7 Plaintiffs and class members allege that at all relevant times, including specifically at
8 the time they purchased or leased their class vehicles, Defendants knew, or were
9 reckless in not knowing, of the HVAC Defect; Defendants were under a duty to
10 disclose the HVAC Defect based upon its exclusive knowledge of it, its affirmative
11 representations about it, and its concealment of it. Defendants failed to disclose the
12 HVAC Defect to the Plaintiffs and class members or the public at any time or place or
13 in any manner.

14 93. Plaintiffs and class members herein make the following specific fraud
15 allegations with as much specificity as possible although they do not have access to
16 information necessarily available only to and peculiarly within the knowledge of
17 Defendants:

- 18 a. **Who:** Defendants (and particularly Toyota Sales USA who prepared
19 advertising materials and specifications for class vehicles and its agents
20 who operated authorized Lexus dealerships which sold class vehicles
21 directly to consumers) actively concealed the HVAC Defect which was
22 material to the purchaser and affected class vehicle value from Plaintiffs
23 and class members while simultaneously touting the comfort and quality
24 of the class vehicles, as alleged above. Plaintiffs and class members are
25 unaware of, and therefore unable to identify, prior to discovery, the true
26 names and identities of specific individuals related to Defendants who
27 are responsible for such decisions, as alleged above except to state that
28 these decisions were made by executives in the marketing and

1 engineering divisions of Defendants.

- 2 b. **What:** Defendants knew that the class vehicles incorporated the HVAC
3 Defect. Defendants (and particularly Toyota Sales USA and its agents
4 who operated authorized Lexus dealerships which sold class vehicles
5 directly to consumers) concealed the HVAC Defect and also made
6 contrary representations about the comfort, and quality of the class
7 vehicles, as specified above in paragraphs above. Defendants intended to
8 defraud the Plaintiffs by omitting material information concerning the
9 HVAC Defect particularly since they were aware of the defect prior to
10 the commencement of class vehicle sales.
- 11 c. **When:** Defendants concealed material information regarding the HVAC
12 Defect at all times and made representations about the quality of the class
13 vehicles, starting no later than 2014, or at the subsequent introduction of
14 certain models of class vehicles to the market, continuing through the
15 time and point of sale/lease, and on an ongoing basis, and continuing to
16 this day, as alleged *supra*. Defendants have never taken any action to
17 inform consumers about the true nature of the HVAC Defect in class
18 vehicles. And when consumers brought their class vehicles to authorized
19 Lexus dealerships complaining of the HVAC Defect, the dealers only
20 then admitted that Defendants were aware of the HVAC Defect but
21 denied any responsibility for bearing the cost of the HVAC evaporator
22 drain HVAC Defect. With regard to each Plaintiff, Defendants
23 concealed and materially omitted the HVAC Defect prior to the time they
24 purchased their respective class vehicles, which in the case of Dong, was
25 August 2023; in the case of Hadi was July 2022; and in the case of
26 Imaizumi was Feb. 2020.
- 27 d. **Where:** Defendants (and particularly Toyota Sales USA who prepared
28 advertising materials and specifications for class vehicles and its agents

1 who operated authorized Lexus dealerships which sold class vehicles
2 directly to consumers) concealed material information regarding the true
3 nature of the HVAC Defect in every communication they had with
4 Plaintiffs and class members and made contrary representations about the
5 quality of the class vehicles. Such information is not adequately
6 disclosed in any sales documents, displays, advertisements, warranties,
7 owner's manual, or on Defendants' website or at the point of sale or
8 earlier.

9 e. **How:** Defendants (and particularly Toyota Sales USA who prepared
10 advertising materials and specifications for class vehicles and its agents
11 who operated authorized Lexus dealerships which sold class vehicles
12 directly to consumers) materially omitted and concealed the HVAC
13 Defect from Plaintiffs and class members and made representations about
14 the quality of the class vehicles as discussed, *supra*. Defendants actively
15 concealed the truth about the existence and nature of the HVAC Defect
16 from Plaintiffs and class members at all times, even though they knew
17 about the HVAC Defect and knew that information about the HVAC
18 Defect would be materially important to a reasonable consumer and
19 Defendants failed to identify the HVAC Defect in any and all class vehicle
20 marketing materials and sales brochures.

21 f. **Why:** Defendants (and particularly TMS who prepared advertising
22 materials and specifications for class vehicles and its agents who
23 operated authorized Lexus dealerships which sold class vehicles directly
24 to consumers) actively concealed and/or intentionally omitted material
25 information about the HVAC Defect in class vehicles for the purpose of
26 inducing Plaintiffs and class members to purchase or lease class vehicles,
27 rather than purchasing or leasing competitors' vehicles and made
28 representations about the world-class quality of the class vehicles. Had

1 Defendants disclosed the truth, for example in its advertisements or other
2 materials or communications, or at the point of sale, Plaintiffs (and
3 reasonable consumers) would have been aware of it, and would not have
4 bought class vehicles or would have paid less for them. In addition,
5 Defendants' dealerships revealed to certain class members that
6 Defendants were well aware of the HVAC Defect but preferred to
7 address it only after it materialized, and the passenger compartments of
8 vehicles were flooded because it was less expensive for Defendants to
9 handle it that way and pass the cost and aggravation onto the class
10 members.

11 **TOLLING OF THE STATUTES OF LIMITATIONS**

12 **Fraudulent Concealment Tolling**

13 94. Defendants have known of the HVAC Defect in the class vehicles since
14 at least 2014, and concealed from or failed to notify Plaintiffs, class members, and the
15 public of the full and complete nature of the HVAC Defect, even when directly asked
16 about it by Plaintiffs and class members during communications with Defendants,
17 Lexus Customer Assistance and authorized Lexus dealerships. Defendants continue to
18 conceal the HVAC Defect to this day.

19 95. Any applicable statute of limitation has been tolled by Defendants'
20 knowledge, active concealment, and denial of the facts alleged herein, which behavior
21 is ongoing.

22 **Estoppel**

23 96. Defendants were and are under a continuous duty to disclose to Plaintiffs
24 and class members the true character, quality, and nature of the class vehicles.
25 Defendants actively concealed – and continue to conceal – the true character, quality,
26 and nature of the class vehicles and knowingly made misrepresentations about the
27 quality of the class vehicles. Plaintiffs and class members reasonably relied upon
28 Defendants' knowing and affirmative representations and/or active concealment of

1 these facts as alleged herein. Based on the foregoing, Defendants are estopped from
2 relying on any statute of limitation in defense of this action.

3 **Discovery Rule**

4 97. The causes of action alleged herein did not accrue until Plaintiffs and
5 class members discovered that their class vehicles incorporated the HVAC Defect.

6 98. In the case of Hadi, that occurred in or about July, 2023, when her
7 interior passenger compartment flooded and she brought her class vehicle in for an
8 appointment at an authorized Lexus dealer, at which point she was given the diagnosis
9 of an insect blockage and given the estimate of approximately \$8,000 to repair the
10 interior.

11 99. In the case of Imaizumi that occurred in or about September, 2023 when
12 his interior passenger compartment flooded and he brought the class vehicle in for an
13 appointment at the dealer, at which point he was given the estimate of approximately
14 \$8,000 to repair the passenger compartment.

15 100. In the case of Dong that occurred in or about December 2023 when her
16 interior passenger compartment flooded and she brought the class vehicle in for an
17 appointment at the dealer, at which point she was given the estimate of approximately
18 \$12,000 to repair the passenger compartment.

19 101. Plaintiffs and class members had no realistic ability to discern that the
20 class vehicles were defective until—at the earliest—after the HVAC Defect caused
21 their passenger compartments to fill with water and cause separate physical damage to
22 the vehicle. Even then, Plaintiffs and class members had no reason to know the water
23 in their passenger compartment was caused by a defect in the class vehicles because
24 of Defendants' active concealment of the HVAC Defect. Plaintiffs and class members
25 were not reasonably able to discover the HVAC Defect until after they had purchased
26 or leased the class vehicles, despite their exercise of due diligence, and their causes of
27 action did not accrue until, at earliest, they discovered that the HVAC Defect was
28 causing their passenger compartments to become flooded.

1 **CLASS ACTION ALLEGATIONS**

2 102. Plaintiffs initiate this lawsuit as a class action on behalf of themselves
3 and all other similarly situated individuals pursuant to Federal Rule of Civil Procedure
4 23(a), 23(b)(1), 23(b)(2), 23(b)(3), and/or 23(c)(4). Plaintiffs allege that the within
5 action satisfies the numerosity, commonality, typicality, adequacy, predominance, and
6 superiority requirements of those provisions. Plaintiffs assert this class action on
7 behalf of themselves and all other similarly situated members of the proposed class
8 (the “class”) and Statewide Subclasses, defined as follows:

9 **Nationwide class:**

10 All purchasers or lessees of class vehicles who purchased a class vehicle
11 in the United States and its territories and possessions

12 **California Subclass:**

13 All purchasers or lessees of class vehicles who purchased a class vehicle
14 in the State of California

15 **New Jersey Subclass:**

16 All purchasers or lessees of class vehicles who purchased a class vehicle
17 in the State of New Jersey

18 103. “Class vehicles” are defined as a vehicle of any of the following
19 models/model years, 2015-2022, which Defendants themselves identified as
20 possessing the HVAC Defect in the respective TSIBs:

21 Lexus CT 200h,
22 Lexus Es 350,
23 Lexus Es 300h,
24 Lexus GX 460,
25 Lexus HS 250h, LFA,
Lexus LS 460, LS 600hL,
Lexus RX 350,
Lexus RX 350 (NAP), and
Lexus RX 450h.

26 104. Excluded from the class are: (1) Defendants, and any entity or division in
27 which Defendants or any of them have a controlling interest, and its legal
28 representatives, officers, directors, assigns, and successors; (2) the judge to whom this

1 case is assigned and the Judge's staff; (3) governmental entities; and (4) claims for
2 personal injuries resulting from the facts alleged herein. Plaintiffs reserve the right to
3 amend the class definitions if discovery and further investigation reveal that the class
4 should be expanded, divided into subclasses, or modified in any other way.

5 **Numerosity**

6 105. Although the exact number of class members is uncertain and can only
7 be ascertained through appropriate discovery, the number is in the tens of thousands
8 or hundreds of thousands, upon information and belief, such that joinder is
9 impracticable. The disposition of the claims of these class members in a single action
10 will provide substantial benefits to all parties and to the Court. class members are
11 readily identifiable from information and records in Lexus's possession, custody, or
12 control, as well as from records kept by individual state motor vehicle departments.

13 **Typicality**

14 106. The claims of Plaintiffs are typical of the claims of class members in that
15 the Plaintiffs, like all class members, purchased and/or leased a class vehicle
16 designed, manufactured, distributed, and sold by Defendants TMNA and Toyota Sales
17 USA. Plaintiffs, like all class members, have been damaged by the misconduct of
18 TMNA and Toyota Sales USA in that they have purchased a vehicle they would not
19 have purchased, or for which they would have paid less, and incurred or will incur the
20 cost and time spent for service and repair relating to and caused by the HVAC Defect.
21 Furthermore, the factual bases of Defendants' misconduct are common to the
22 Plaintiffs and all class members and represent a common thread of misconduct
23 resulting in injury to the Plaintiffs and all class members.

24 **Adequate Representation**

25 107. Plaintiffs will fairly and adequately represent and protect the interests of
26 the class members. Plaintiffs have retained counsel with substantial experience in
27 prosecuting consumer class actions, including actions involving defective automotive
28 vehicles.

1 108. Plaintiffs and their counsel are committed to vigorously prosecuting this
2 action on behalf of the class, and have the financial resources to do so. Neither
3 Plaintiffs nor their counsel have interests adverse to those of the class.

4 **Predominance of Common Issues**

5 109. There are numerous questions of law and fact common to Plaintiffs and
6 class members, the answers to which will advance resolution of the litigation as to all
7 class members, and which predominate over any individual question. These common
8 legal and factual issues include:

- 9 A. whether the HVAC evaporator drain in the class vehicles is defective;
10 B. whether Defendants knew or should have known about the HVAC
11 Defect, and, if so, how long Defendants knew or should have known of
12 the HVAC Defect;
13 C. whether the defective nature of the class vehicles constitutes a material
14 fact reasonable consumers would have considered in deciding whether to
15 purchase a class vehicle;
16 D. whether Defendants had and/or have a duty to disclose the defective
17 nature of the class vehicles to Plaintiffs and class members;
18 E. whether Defendants omitted and failed to disclose material facts about
19 class vehicles;
20 F. whether Defendants' concealment of the true defective nature of class
21 vehicles induced Plaintiffs and class members to act to their detriment by
22 purchasing class vehicles;
23 G. whether Defendants represented, through their words and conduct, that
24 class vehicles had characteristics, uses, or benefits that they did not
25 actually have, in violation of the California Consumer Legal Remedies
26 Act ("CLRA") and New Jersey's Consumer Fraud Act ("NJCFA");
27 H. whether Defendants represented, through their words and conduct, that
28 the class vehicles were of a particular standard, quality, or grade when

1 they were of another, in violation of the implied warranty and/or the
2 CLRA and NJCFA;

3 I. whether Defendants advertised the class vehicles with the intent not to
4 sell them as advertised, in violation of the CLRA and NJCFA;

5 J. whether the class vehicles were unfit for the ordinary purposes for which
6 they were used, in violation of the implied warranty of merchantability;

7 K. whether Plaintiffs and the other class members are entitled to a
8 declaratory judgment stating that the HVAC evaporator drain in class
9 vehicles are defective and/or not merchantable;

10 L. Whether Plaintiff and the class are entitled to damages based upon class-
11 wide diminution of value, payment of a price premium and/or out-of-
12 pocket damages.

13 M. whether Defendants should be declared financially responsible for
14 notifying class members of the problems with the class vehicles and for
15 the costs and expenses of permanently remedying the HVAC evaporator
16 drain HVAC Defect in the class vehicles; and,

17 N. whether Defendants are obligated to inform class members of their right
18 to seek reimbursement for having paid to diagnose, service, repair, or
19 replace the defective HVAC evaporator drain.

20 **Superiority**

21 110. Plaintiffs and class members have all suffered and will continue to suffer
22 harm and damages as a result of Defendants' unlawful and wrongful conduct. A class
23 action is superior to other available methods for the fair and efficient adjudication of
24 this controversy.

25 111. Absent a class action, most class members would likely find the cost of
26 litigating their claims prohibitively high and would therefore have no effective
27 remedy at law. Because of the relatively small size of the individual class members'
28 claims, it is likely that only a few class members could afford to seek legal redress for

1 Defendants' misconduct. Absent a class action, class members will continue to incur
2 damages, and Defendants' misconduct will continue without remedy.

3 112. Class treatment of common questions of law and fact would also be a
4 superior method to multiple individual actions or piecemeal litigation in that class
5 treatment will conserve the resources of the courts and the litigants, and will promote
6 consistency and efficiency of adjudication.

7
8 **FIRST CLAIM FOR RELIEF**

9 **BREACH OF IMPLIED WARRANTY**

10 **(On Behalf of Plaintiffs and the Nationwide Class against All Defendants)**

11 113. Plaintiffs incorporate by reference each allegation set forth in paragraphs
12 1 through 112 as if set forth in full here.

13 114. When Defendants sold the class vehicles, Defendants extended an
14 implied warranty to class members that the class vehicles were merchantable and fit
15 for the ordinary purpose for which such goods were sold.

16 115. Persons who purchased a class vehicle from Defendants are entitled to
17 the benefit of their bargain: a vehicle with a non-defective HVAC evaporator drain
18 that properly drains water and does not allow HVAC condensation to drain into the
19 passenger compartment.

20 116. Defendants breached this implied warranty in that its class vehicles are:
21 (1) not fit for ordinary use; and, (2) not of a merchantable quality.

22 117. Had the fact that the HVAC Defect existed been disclosed at the time of
23 sale, the class vehicles could not have been sold, or could not have been sold at the
24 same price.

25 118. To the extent reliance is required, reliance was present on the part of each
26 Plaintiff and is presumed under the present circumstances.

27 119. As a direct and proximate result of Defendants' breach of the implied
28 warranty of merchantability, Plaintiffs and class members have been damaged in an

1 amount to be proven at trial.

2
3 **SECOND CLAIM FOR RELIEF**
4 **VIOLATION OF THE CALIFORNIA CONSUMER**
5 **LEGAL REMEDIES ACT,**
6 **Cal. Civ. Code §§ 1750 *et seq.***

7 **(On Behalf of Dong and the California Subclass against All Defendants)**

8 120. Proposed California class representative Dong and California Subclass
9 members incorporate by reference each allegation set forth in paragraphs 1 through
10 112 as if set forth in full here.

11 121. Dong asserts this count on behalf of herself and members of the
12 California Subclass.

13 122. Defendants violated Cal. Civ. Code § 1770(a)(5) by representing that
14 class vehicles have characteristics, uses, benefits and/or quantities they do not
15 possess.

16 123. Defendants violated Cal. Civ. Code § 1770(a)(7) by representing that
17 class vehicles are of a particular standard, quality or grade, when they are not, and in
18 particular, by supplying vehicles that have a defect that involves an unreasonable
19 safety issue as described in this complaint.

20 124. Defendants violated Cal. Civ. Code § 1770(a)(9) by advertising class
21 vehicles with the intent not to sell them as advertised.

22 125. Defendants violated Cal. Civ. Code § 1770(a)(16) by representing that
23 the subject of a transaction has been supplied in accordance with a previous
24 representation when it was not.

25 126. Defendants conducted the above-described acts or practices in
26 transactions intended to result, or that did result, in the sale of class vehicles to
27 customers for personal, family or household use.

28 127. The nature of the alleged defect, as a safety issue and/or as a defect that

1 goes to the essential functioning of the vehicle and/or as a defect of which Defendants
2 had exclusive knowledge, imposes a duty to disclose the HVAC Defect upon
3 Defendants. This is true regardless of the transactional relationship with the vehicle
4 owner.⁹

5 128. Defendants breached their duties under the CLRA by omitting material
6 information concerning the HVAC Defect (including electrical system safety issues)
7 and the fact that it would result in extensive damage to the vehicle's interior and
8 mold, fungus and other unsafe air quality issues unless repaired at significant expense
9 to Dong and the California Subclass members. Had Defendants revealed the existence
10 of the material HVAC Defect, Dong and the California Subclass members would not
11 have purchased their class vehicles or if they had, they would have done so at
12 significantly lesser cost and therefore paid a price premium as a result of the material
13 omission by Defendants.

14 129. Dong and the California Subclass members relied on Defendants'
15 affirmative representations that no additional maintenance would be required for the
16 subject class vehicle's HVAC evaporator drain system outside out of the regularly
17 recommended maintenance schedule. *See* 2021 Lexus RX 450h Owner's Manual at
18 pp. 359-365. If Dong and California Subclass members had been made aware of the
19 defects in their respective class vehicle's HVAC evaporator drain system and the
20 attendant ramifications of their respective vehicle's diminution in value, future cost of
21 repairs, durability and care, they would not have purchased the class vehicles or paid
22 less since each class member believed they were purchasing vehicles without major
23 defects and were not informed of true characteristics and attributes of class vehicle's
24 HVAC evaporator drain system defects.

25 ⁹ Defendants had a duty to disclose because (1) the defective Evaporator Drain at issue
26 relates to an unreasonable safety hazard and/or (2) the defective Evaporator Drain is
27 material to the class vehicle's HVAC function as alleged in this complaint.
28 Additionally, Defendants had exclusive knowledge of material facts not known to the
Plaintiffs; (3) Defendants actively concealed the HVAC Defect from the Plaintiffs;
and/or (4) Defendants made partial representations but otherwise suppressed material
facts.

1 130. To the extent relevant, Paragraph 93, subdivisions (a) through (f)
2 hereinabove, are expressly incorporated herein with respect to the who, what when,
3 where, how and why concerning the knowing and actionable material omissions of
4 Defendants with regard to the HVAC Defect.

5 131. As a result of Defendants' conduct, and knowing material omission,
6 Dong and the California Subclass members were harmed and suffered actual damages
7 and compensatory damages in the form of diminution of value, payment of a price
8 premium, payment for the cost of repairs in that their respective class vehicles
9 experienced interior passenger HVAC water leaks. As a direct and proximate result of
10 Defendants' unfair or deceptive acts or practices, Dong and California Subclass
11 members, suffered and will continue to suffer actual damages.

12 132. CLRA claims commenced to run against Dong and California Subclass
13 members in December 2023, which when Dong discovered the cause of the flooding
14 in her passenger cabin. Dong could not have discovered the HVAC Defect earlier
15 despite reasonable diligence because Defendants' knowing concealment and/or
16 intentional omissions and other conduct as described in this complaint.

17 133. On January 12, 2023, Dong sent Defendants a pre-suit notice notifying
18 Defendants of the violations of the CLRA pursuant to Cal. Civ. Code § 1782,
19 requesting compensatory damages for Plaintiff and the California Subclass and
20 Defendants failed to provide the relief requested within thirty (30) days of receipt
21 thereof.

22 134. Defendants violated the CLRA and committed other unfair and deceptive
23 business practices as described in this complaint. Dong and California Subclass
24 members request judgment against Defendants. Dong and California Subclass
25 members further request costs and attorneys' fees and all other relief authorized by the
26 CLRA Act together with such additional relief as appropriate and necessary.

THIRD CLAIM FOR RELIEF

VIOLATIONS OF NJCFA

(On Behalf of Hadi and the New Jersey Subclass)

135. Proposed New Jersey class representative Hadi and New Jersey Subclass members incorporate by reference each allegation set forth in paragraphs 1 through 112 as if set forth in full here.

136. The NJCFA states in pertinent part as follows:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice .

...

N.J.S.A. § 56:8-2.

137. Defendants are each a “person” as defined by the NJCFA. N.J.S.A. § 56:8-1(d).

138. The purchase or lease of class vehicles by Hadi and New Jersey Subclass Members constituted “merchandise” as defined by the NJCFA. N.J.S.A. § 56:8-1 and § 56:8-2.

139. By knowingly concealing the defective nature of the class vehicles to Plaintiffs and class members, Defendants violated the NJCFA, because such information was a material fact that a reasonable consumer would want to know and the omission thereof was material to a reasonable consumer.

140. Defendants represented that the class vehicles had characteristics and benefits that they do not possess, and represented that the class vehicles were of the highest standard, quality, or grade for a luxury vehicle when they were of another.

141. Defendants’ unfair and deceptive acts or practices occurred repeatedly in Defendants’ course of trade or business, were material, were capable of deceiving a

1 substantial portion of the purchasing public, and as a result, caused economic harm to
2 owners and purchasers of the class vehicles.

3 142. Defendants knew, by 2014 at the latest, and certainly before the sale or
4 lease of the class vehicles, that class vehicles' HVAC evaporator drain suffered from
5 an inherent defect, would exhibit problems such water drainage into the passenger
6 compartment of class vehicles, and were not suitable for their intended use.

7 143. By 2014 at the latest, Defendants had exclusive knowledge of material
8 facts concerning the existence of the HVAC Defect in its class vehicles. Yet,
9 Defendants actively concealed this HVAC Defect from consumers at and prior to the
10 time of purchase and failed to offer class members a permanent solution to the HVAC
11 Defect.

12 144. Defendants were under a duty to Hadi and New Jersey Subclass members
13 to disclose the defective nature of the HVAC evaporator drain, as well as the
14 associated costs that would have to be expended in order to repair or replace the class
15 vehicles interior carpeting and seating due to the HVAC Defect and the resulting
16 additional and separate physical damage to the vehicle it caused.

17 145. Defendants were in a superior position to know the true state of facts
18 about the HVAC Defect in the class vehicles;

19 146. Hadi and New Jersey Subclass members could not reasonably have been
20 expected to learn or discover that the class vehicles had the HVAC Defect until, at the
21 earliest, the first instance of the issue occurring.

22 147. Defendants knew that Hadi and New Jersey Subclass members could not
23 reasonably have been expected to learn or discover the HVAC Defect prior to its
24 manifestation.

25 148. Defendants knew or should have known that their conduct violated the
26 NJCFA.

27 149. In failing to disclose the defective nature of the class vehicles, and/or
28 denying and misleading as to the true cause and remedy of the noxious foul odor,

1 Defendants knowingly and intentionally concealed material facts and breached their
2 duty to not do so.

3 150. The facts Defendants concealed from Hadi and New Jersey Subclass
4 members are material in that a reasonable consumer would have considered them to
5 be important in deciding whether to purchase or lease a class vehicle. Moreover, a
6 reasonable consumer would consider the HVAC Defect to be an undesirable quality,
7 as Hadi and New Jersey Subclass members did. If Hadi and New Jersey Subclass
8 members had known that the class vehicles had the HVAC Defect, they would not
9 have purchased or leased a class vehicle, or would have paid less for them.

10 151. Plaintiffs and class members, like all objectively reasonable consumers,
11 did not expect the HVAC evaporator drain to drain water into their passenger
12 compartments and cause damage to carpets and seats.

13 152. To the extent relevant, paragraph 93, subdivisions (a) through (f),
14 hereinabove, are expressly incorporated herein with respect to the who, what when,
15 where, how and why concerning the knowing and actionable material omissions of
16 Defendants with regard to the HVAC Defect.

17 153. As a result of Defendants' misconduct, Hadi and New Jersey Subclass
18 members have been harmed and suffered ascertainable damages and actual
19 compensatory damages including that Plaintiffs and class members would not have
20 purchased their vehicles for the price paid, or would not have purchased them at all
21 had they known of the material HVAC Defect and as a result, paid an unconscionable,
22 illegal and improper price premium which they would not have paid, diminution of
23 value and payment of the cost of repairs.

24 154. As a direct and proximate result of Defendants' unfair or deceptive acts
25 or practices, Hadi and New Jersey Subclass members suffered and will continue to
26 suffer ascertainable losses in that they have experienced and may continue to
27 experience their class vehicles' HVAC evaporator drain failing, resulting in water
28 flooding into the passenger compartment of the vehicle causing physical damage, and

1 for which they must pay out-of-pocket.

2 155. Defendants' violations present a continuing safety risk to Hadi and New
3 Jersey Subclass members and to the general public. Defendants' unlawful acts and
4 practices complained of herein affect the public interest.

5 154. Pursuant to N.J.S.A. § 56:8-2, Hadi and New Jersey Subclass members
6 request actual and statutory damages, attorneys' fees and expenses, treble damages,
7 and punitive damages as permitted under the NJCFA and applicable law.

8
9 **FOURTH CLAIM FOR RELIEF**

10 **FRAUD BY OMISSION**

11 **(On Behalf of All Plaintiffs and the Nationwide Class against All Defendants)**

12 155. Plaintiffs incorporate by reference each allegation set forth in paragraphs
13 1 through 112 as if set forth in full here.

14 156. Defendants concealed and suppressed material facts concerning the
15 quality of the class vehicles.

16 157. Defendants concealed and suppressed material facts concerning the
17 quality of the HVAC Evaporator drain in the class vehicles.

18 158. Defendants concealed and suppressed material facts concerning the
19 serious HVAC Evaporator drain HVAC Defect causing class vehicles' HVAC
20 Evaporator drain to be more susceptible to blockages, which would cause water to
21 drain into passenger compartments.

22 159. Defendants knew that Plaintiffs and class members would not be able to
23 inspect or otherwise detect the HVAC Defect prior to purchasing or leasing class
24 vehicles. Defendants furthered and relied upon this lack of disclosure to further
25 promote payments for the additional damage caused by the HVAC Defect to
26 passenger compartment including carpets and seats – all the while concealing the true
27 nature of the HVAC Defect from Plaintiffs and class members. Defendants further
28 denied the very existence of the HVAC Defect and the propensity of blockages when

1 Plaintiffs and class members complained of the HVAC Defect.

2 160. Defendants concealed and suppressed material facts that point to the
3 nature of the HVAC Defect. In reality, an ARINIX® Tip (connector, water hose), as
4 admitted by Defendants in their various TSIBs and TSBs to authorized dealers, would
5 remedy the HVAC Defect and protect against the HVAC Evaporator drain causing
6 flooding and physical damage to the class vehicle. Without this fix, the water damage
7 caused by the HVAC Defect in the passenger compartment far exceeded the costs
8 associated with the ARINIX® Tip.

9 161. Defendants committed the foregoing acts and omissions in order to
10 promote sales, boost confidence in their vehicles and falsely assure purchasers and
11 lessees of Lexus vehicles, that the class vehicles were comfortable, warranted and
12 reliable vehicles and concealed the information in order to prevent harm to Lexus and
13 its products' reputations in the marketplace and to prevent consumers from learning of
14 the defective nature of the class vehicles prior to their purchase or lease. These false
15 representations and omissions were material to consumers, both because they
16 concerned the quality of the class vehicles and because the representations and
17 omissions played a significant role in the decision to purchase or lease the class
18 vehicles and because the failure of the HVAC Evaporator drain to act in the manner
19 intended and fail, caused separate and independent physical damage to class vehicles.

20 162. Defendants had and continue to have a duty to disclose the HVAC Defect
21 in the class vehicles because they were known and/or accessible only to Defendants.
22 Defendants had superior knowledge and access to the facts and Defendants knew the
23 facts were not known to, or reasonably discoverable, by Plaintiffs and class members.

24 163. Defendants also had a duty to disclose because they made affirmative
25 representations about the superior quality, warranty, and lack of defects in the class
26 vehicles as set forth above, which were misleading, deceptive, and/or incomplete
27 without the disclosure of the additional facts set forth above regarding their actual
28 quality, comfort, and usability. Even when faced with complaints regarding the

1 HVAC Defect, Defendants misled and concealed the true cause of the symptoms
2 complained of.

3 164. As a result, class members were misled as to the true condition of the
4 class vehicles once at purchase/lease and again when they complained of damage
5 associated with the HVAC Defect.

6 165. The omitted and concealed facts were material because they directly
7 impact the value, appeal, and usability of the class vehicles purchased or leased by
8 Plaintiffs and class members. Whether a manufacturer's products are as stated by the
9 manufacturer, backed by the manufacturer, and usable for the purpose it was
10 purchased, are material concerns to a consumer.

11 166. Defendants actively concealed and/or suppressed these material facts, in
12 whole or in part, to protect its reputation, sustain its marketing strategy, avoid recalls
13 that would hurt the brand's image and cost money, and did so at the expense of
14 Plaintiffs and class members.

15 167. On information and belief, Defendants have still not made full and
16 adequate disclosure and continue to defraud Plaintiffs and class members and conceal
17 material information regarding the HVAC Defect that exists in the class vehicles.

18 168. Plaintiffs and class members were unaware of these omitted material
19 facts and would not have acted as they did if they had known of the concealed and/or
20 suppressed facts, i.e., they would not have purchased or leased class vehicles, or
21 would have paid less for them. Plaintiffs and class members' actions were justified.
22 Defendants were in exclusive control of the material facts and such facts were not
23 known to the public, Plaintiffs, or class members.

24 169. Because of the concealment and/or suppression of the facts, Plaintiffs
25 and class members sustained damage because they negotiated and paid value for the
26 class vehicles not commensurate of the HVAC Defect that Defendants failed to
27 disclose and paid for temporary measures and replacement parts to attempt to remedy
28 the HVAC Defect. Had they been aware of the concealed HVAC Defect that existed

1 in the class vehicles, Plaintiffs would have paid less for their vehicles or would not
2 have purchased or leased them at all.

3 170. Accordingly, Defendants were liable to Plaintiffs and class members for
4 damages in an amount to be proven at trial.

5 171. Defendants' acts were done maliciously, oppressively, deliberately, with
6 intent to defraud, and in reckless disregard of Plaintiffs and class members' rights and
7 well-being to enrich themselves and save themselves the costs of repair both
8 preemptively and post-damage. Defendants' conduct warrants an assessment of
9 punitive damages in an amount sufficient to deter such conduct in the future, which
10 amount is to be determined according to proof.

11 **PRAYER FOR RELIEF**

12 Plaintiffs, on behalf of themselves, and all others similarly situated, request the
13 Court to enter judgment against Defendants, as follows:

- 14 i. an order certifying the proposed class and/or any appropriate subclasses,
15 designating Plaintiffs as named representative of the class, and
16 designating the undersigned as class counsel;
17 ii. an award to Plaintiffs and class members of compensatory, exemplary,
18 and statutory damages, including interest, in an amount to be proven at
19 trial;
20 iii. an order requiring Defendants to disgorge, for the benefit of Plaintiffs
21 and class members, all or part of the ill-gotten revenue it received from
22 the sale or lease of the class vehicles, or make full restitution thereof to
23 Plaintiffs and class members;
24 iv. an award of attorneys' fees and costs, as allowed by law;
25 v. an award of pre-judgment and post-judgment interest, as provided by law;
26 vi. leave to amend this complaint to conform to the evidence produced at
27 trial; and,
28 vii. such other relief as may be appropriate under the circumstances.

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury on all issues triable by jury.

Dated: September 4, 2024

Respectfully submitted,

/s/ S. Martin Keleti

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